

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

DATATREASURY CORPORATION,
Plaintiff,
v.
WELLS FARGO & COMPANY, et al.,
Defendants.
Civil Action No. 2:06-CV-72
Jury Demanded

MOTION OF DEFENDANTS THE BANK OF NEW YORK CO., INC., THE BANK OF NEW YORK,
UNIONBANCAL CORP., AND UNION BANK OF CALIFORNIA, NATIONAL ASSOCIATION TO
SEVER AND STAY THE CLAIMS RELATING TO THE BALLARD PATENTS PENDING
REEXAMINATION OF THE BALLARD PATENTS

Defendants The Bank of New York Company Incorporated ("BNYC"), The Bank of New
York ("BNY"), UnionBanCal Corporation ("UnionBanCal"), and Union Bank of California,
National Association ("UBOC") move for a severance and stay of the claims related to U.S.
Patent Nos. 5,910,988 ("the '988 patent") and 6,032,137 ("the '137 patent") (collectively the
"Ballard patents") until the reexamination of those two patents is complete.

Defendants Harris Bankcorp., Inc., Harris N.A., KeyBank National Association,
KeyCorp, PNC Bank, The PNC Financial Services Group, Inc., Sun Trust Bank, Sun Trust
Banks, Inc., and Electronic Data Systems Corp. filed a Motion to Sever and Stay the Claims
Relating to the Ballard Patents Pending Reexamination of the Ballard Patents on September 19,
2006 in this matter. (Docket Entry #260). BNYC, BNY, UnionBanCal and UBOC adopt the
arguments and authorities advanced by that Motion to Sever and Stay, as if set out fully herein.
Specifically, BNYC, BNY, UnionBanCal and UBOC assert that they, like the KeyBank and

PNC defendants, seek to avoid substantial time and expense in defending DataTreasury Corporation's claims of patent infringement related to the Ballard patents and instead focus on the claims asserted under the Huntington Patents (U.S. Patent Nos. 5,717,868 and 5,265,007).

In the interest of justice and of judicial economy, this Court should sever and stay the claims related to the Ballard patents pending the completion of their reexamination.

Respectfully submitted,

September 28, 2006

/s/ Jennifer Parker Ainsworth

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UnionBanCal Corporation and Union Bank of California,  
National Association*

**CERTIFICATE OF CONFERENCE**

I certify that on September 28, 2006, I conferred with Plaintiff DataTreasury Corporation's counsel, Eric M. Albritton, in a good faith attempt to resolve this matter without court intervention. Mr. Albritton stated the Plaintiff opposes this Motion.

*/s/ Scott J. Pivnick*\_\_\_\_\_

Scott J. Pivnick

**CERTIFICATE OF SERVICE**

I certify that all counsel of record who are deemed to have consented to electronic service are being served this 28<sup>th</sup> day of September 2006, with a copy of the foregoing via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by, electronic mail, facsimile transmission and/or first class mail on this same date.

*/s/ Jennifer P. Ainsworth*\_\_\_\_\_

Jennifer P. Ainsworth